IN THE HIGH COURT OF BOMBAY AT GOA
****

WRIT PETITION NO. 219 OF 2003

Shri Mahesh Pendse,
s/o Janardan V. Pendse,
r/o H.No. 375-B,
Shantinagar, Navelim,
Salcete, Goa. ... Petitioner.

Versus

1. Shri Dhiraj P. Ekoskar,
s/o Prakash Ekoskar,
major in age, businessman,

2. Prakash G. Ekoskar,
s/o Govind Ekoskar,
major in age, occupation
businessman, and

3. Sagar P. Ekoskar,
s/o Prakash Ekoskar,
major in age, occupation
service. ... Respondents.

Shri G. Shirodkar, advocate for the petitioner.

Shri Sudin Usgaokar, advocate for the respondents.

CORAM : F. I. REBELLO, J.

DATE : 17th July, 2003.

ORAL JUDGMENT

Rule. Respondents waive service. Heard forthwith.

The petitioner had applied for recall of a witness as the evidence was closed in the absence of his advocate. That application has been rejected by the learned trial court by Order dated 4th March, 2003, which is the subject-matter of the present Writ Petition.

2. The learned Judge has proceeded on the footing that there is no provision of law to entertain the same. It

is not necessary to go into the various aspects as Order 17 only empowers the court to adjourn the matter or to proceed otherwise in the circumstances set out therein. There is always an inherent power in the Court under Section 151 C.P.C. It is not as if there is no power whatsoever as there is power under Order 18 Rule 17 of the C.P.C.

In the light of that, Order dated 4th March, 2003,is set aside. Application at Exh.30 is allowed and the trial Court is directed to recall the witness of the qplaintiff/respondent no.1 herein and examine the witness and proceed with the trial according to law.

Rule made absolute accordingly.

The Writ Petition is disposed of with no order as to costs.

F. I. REBELLO, J.

mc.